IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929

OP.No. 1969 of 2000(H)

PETITIONER:

KEVEEYEM & CO,
NUT MERCHANTS AND COMMISSION AGENTS,
AYLAKKAD POST, EDAPPAL, REPRESENTED BY ITS
MANAGING PARTNER K.V.MOHAMMED.

BY ADV. SRI.M.PATHROSE MATHAI (SR) &
SRI.SAJI VARGHESE

RESPONDENTS:
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1. THE COMMISSIONER OF COMMERCIAL TAXES,
GOVERNMENT OF KERALA, TRIVANDRUM.

2. THE ASSISTANT COMMISSIONER (ASSESSMENT)
SPECIAL CIRCLE, TIRUR.

BY SR.GOVERNMENT PLEADER MR.MOHAMMED RAFIQ

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 31/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE ORDER OF THE BOARD OF REVENUE DATED 14.3.1997

EXT.P2 TRUE COPY OF THE ORDER OF THE BOARD OF REVENUE DATED 14.3.1997

EXT.P3 TRUE COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT DATED 10.11.1999.

/ TRUE COPY /

H.L.DATTU, C.J. & K.T.SANKARAN, J.

O.P.No.1969 of 2000

Dated, this the 31st day of July, 2007

JUDGMENT

H.L.Dattu, C.J.

Petitioner is a registered dealer under the provisions of the Kerala General Sales Tax Act, 1963 and the Central Sales Tax Act, 1956. For the assessment years 1990-91 and 1991-92, the assessing authority had passed an order levying penal interest. Aggrieved by that order, petitioner had carried the matter by way of revision petition before the revisional authority. The revisional authority had passed an order in favour of the assessee. Thereafter the Commissioner of Commercial Taxes has issued a show cause notice dated 10.11.1999 under Section 43 of the Kerala General Sales Tax Act to rectify an error apparent on the face of the records based on the decision of a Division Bench of this Court. It is at that stage the petitioner was before this Court, inter alia, questioning the show cause notice so issued by the revisional authority.

(2) In our opinion, the petition filed by the petitioner is fully premature. If for any reason, the petitioner was of the opinion that the revisional authority could not have issued the aforesaid notice, it should have filed appropriate objections requesting the authority to drop the proceedings. Without doing so, the petitioner has rushed to this Court.

(3) In that view of the matter, we do not propose to entertain this writ petition. Accordingly the writ petition requires to be disposed of as under:

(i) Original petition is disposed of.

(ii) Petitioner is given four weeks time from today to file its objections to

the show cause notice dated 10.11.1999 issued by the first respondent revisional authority.

(iii) Liberty is reserved to the petitioner to take up all such contentions that are available to him including the contentions that are raised in this writ petition. Petitioner is also at liberty to bring to the notice of the revisional authority the recent decision of the apex Court in the case of ***Maruti Wire Industries (P) Ltd.*** v. ***Sales Tax Officer*** (2001 (2) KLT 100) on the pointed issue.

Consequently, C.M.P.No.3169 of 2000 is also dismissed.

Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns